

After reviewing the preliminary hearing record and considering the arguments contained in the briefs of the parties, the Appeals Board finds as follows:

Claimant was diagnosed with bilateral carpal tunnel syndrome while employed in 1997 at TLC Company. On July 16, 1997, hand surgeon John B. Moore, IV, M.D., performed a carpal tunnel release on the right and on August 13, 1997, a carpal tunnel release on the left. Claimant was released by Dr. Moore on January 30, 1998, with restrictions of limiting sustained elbow flexion to no greater than 45 degrees and no repetitive lifting or gripping.

Claimant started working for the respondent on May 15, 1998, in the kitchen washing pots and pans. Before she started working, she notified her supervisor that she was limited to lifting 30 to 40 pounds. The respondent required her to lift and wash heavy cast iron pots weighing 80 pounds. This heavy lifting made claimant's hands swell and painful. Claimant testified that after a short period of time of performing these duties her hands were so painful she could not function.

Claimant notified her supervisor of her swollen and painful hands on June 5, 1998. The respondent sent her for an examination and treatment to Glen D. Singer, M.D. Dr. Singer saw claimant on June 10, 1998, and diagnosed residual problems from carpal tunnel. He restricted claimant to 40 hours of work per week, lifting no more than 5 pounds, and to work with wrist splints at all times.

Respondent then placed claimant on a light duty job of picking defective packaged candies from a conveyor belt. Claimant's last appointment with Dr. Singer was on July 7, 1998, when he restricted claimant from no repetitive use of both hands.

Respondent terminated claimant on July 13, 1998, because no work was available within her restrictions. Respondent also notified claimant that it would not be providing additional medical treatment for her swollen hands and wrists.

After claimant was released to return to work following her carpal tunnel surgeries on January 30, 1998, she worked from February 1998 until May 15, 1998, for Medical Lodge Home Health Care. There she fixed meals, performed housework, and fed clients in their homes. Claimant testified she did not have any pain or swollen hands from performing those duties. Further, claimant testified she did not have problems with her hands or wrists until she had to lift the heavy cast iron pots while working for the respondent.

The Appeals Board finds claimant testimony and the medical records admitted into evidence at the preliminary hearing established it is more probable true than not that claimant's current need for medical treatment for her hands and wrists is related to the heavy work activities she had to perform while she was working for the respondent. At least, the Appeals Board concludes that claimant's previous bilateral carpal tunnel problem was temporarily aggravated by those heavy work activities.

The Appeals Board is mindful that in a letter dated July 2, 1998, to the respondent, Dr. Wolfe, who was one of claimant's treating physicians after she started working for the respondent, relates claimant current hand problems to her prior injury. But the Appeals Board also finds the medical treatment records of Dr. Wolfe and Dr. Singer, another physician who treated claimant after she started working for respondent, indicate claimant's hands were swollen and painful from the heavy work she performed for respondent. Both physicians placed work restrictions on the claimant of no repetitive work activities and limited lifting to 5 pounds. The last medical record from these physicians dated July 7, 1998, indicated no repetitive use of the hand and instructed claimant to return for additional treatment.

Respondent also contends the Administrative Law Judge exceeded his jurisdiction in ordering temporary total disability compensation and ordering respondent to pay \$250 in unauthorized medical expenses. The preliminary hearing statute found in K.S.A. 1998 Supp. 44-534a gives the Administrative Law Judge the authority to grant or deny medical treatment and temporary total disability benefits pending the conclusion of a full hearing on the claim. Therefore, at this juncture of the proceedings, the Appeals Board finds it does not have jurisdiction to review the Administrative Law Judge's finding that claimant is entitled to temporary total disability compensation and payment of \$250 unauthorized medical expenses.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that Administrative Law Judge Bryce D. Benedict's January 28, 1999, preliminary hearing Order for Compensation, should be and the same is hereby affirmed.

IT IS SO ORDERED.

Dated this ____ day of March 1999.

BOARD MEMBER

c: Jerald R. Long, Mission, KS
Brenden W. Webb, Overland Park, KS
Bryce D. Benedict, Administrative Law Judge
Philip S. Harness, Director